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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/735,006 | 12/11/2003 | Gerald P. McCann | 7233-101 | 2300 |
| 167 | 7590 | 08/16/2005 | EXAMINER | |
| FULBRIGHT AND JAWORSKI LLP 555 S. FLOWER STREET, 41ST FLOOR LOS ANGELES, CA 90071 | | | ALI, MOHAMMAD M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3744 | |

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/735,006 | | MCCANN ET AL. | |
| | Examiner | | Art Unit | |
| | Mohammad Ali | | 3744 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-16, 18-22 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-16, 18-20, 22 and 24-26 is/are rejected.
- 7) ☐ Claim(s) 21 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-5, 9, 11, 14-15, 20, 22, 24-26 are rejected under 35 U.S.C. 103(a) as unpatentable over Deering et al, (5,433,348) in view of Jarrett (5,056,686) and McMillin (4,216,879). Deering et al., disclose dispensing system comprising a carbonated water circulation circuit 143, a dispensing tower 110 in fluid communication with the carbonated water circulation circuit 143, a circulation pump (see column 11, lines 36-40) capable of inducing circulation in the carbonated water circulation circuit and a cold plate, an ice storage bin/chamber 141 including heat transfer coils/(waterline/product (See column 10, lines 35-43). Deering et al., disclose the invention substantially as claimed as stated above including maintaining a carbonated water temperature at 34

degrees F (approximately). See Fig. 8, 11 and column 7, lines 10-13. However, Deering et al., do not disclose a bar gun and a circulation pump of capacity having less than 35 gall/hr . Jarrett teaches the use of a bar gun dispensing head 22 in a carbonated beverage dispensing system for the purpose of dispensing beverage and McMillin teaches the use of a circulation pump 13 of about 25 GPH, which is less than 35 gall/hr in a beverage dispensing system for purpose of circulating, carbonated beverage. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the dispensing head of Deering et al., in view of Jarrett and McMillin such that a bar gun dispensing head and circulating pump of 25 GPH could be provided in order to dispense beverages.

Claims 6-8, 11-12, 16, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deering et al. in view of Jarrett and McMillin as applied to claim 5 above and further in view of Horey et al., (6,581,391). Deering et al., in view of Jarrett and McMillin disclose the invention substantially including a temperature of the close carbonator circuit of approximately 34 degree F (which is obviously equivalent to 33 degree F) as claimed as stated above. However, Deering et al. in view of Jarrett and McMillin do not disclose the location of carbonation between a circulation pump and a heat transfer coils. Horey et al., teach the use of carbonator 60 between a circulation pump 61 and a heat transfer coil 91 and further connecting dispensing head S in a carbonated beverage dispensing system for the purpose of dispensing drinks. See Fig. 6. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the dispensing system of Deering et al., in view

Art Unit: 3744

of Jarrett, McMillin and further in view of Horey et al., such that a carbonator could be provided between a circulating pump and a heat transfer coil in order to dispense the carbonated beverage.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deering et al. in view of Jarrett and McMillin as applied to claim 5 above and further in view of Bethuy et al., (5,732,563). Deering et al., in view of Jarrett and McMillin disclose the invention substantially as claimed as stated above. However, Deering et al., in view of Jarrett and McMillin do not disclose a check valve. Bethuy et al., teach the use of a check valve CV between a carbonator 10 and bar gun/dispensing valve 55 in a beverage dispenser for the purpose of fluid control between the carbonator and the dispensing valve. See Fig 13. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the dispensing system of Deering et al., in view of Jarrett, McMillin and further in view of Bethuy et al., such that a check valve could be provided in order to control fluid flow between the carbonator and the dispensing valve.

Allowable Subject Matter

Claims 21 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments


Art Unit: 3744

Applicant's arguments with respect to claims 1-12, 14-16, 18-27 have been considered but are moot in view of the new ground(s) of rejection as stated above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad Ali whose telephone number is (571) 272-4806. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4834

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Mohammad M. Ali
August 12, 2005